



General Assembly

Substitute Bill No. 6356

January Session, 2017

* _____HB06356PD_____040317_____*

**AN ACT CONCERNING PUBLIC NOTICE OF TREE REMOVAL ON
MUNICIPAL PROPERTY.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 23-65 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective from passage*):

3 (a) Any person, firm or corporation which affixes to a telegraph,
4 telephone, electric light or power pole, or to a tree, shrub, rock or other
5 natural object [in] on any municipal property or in any public way or
6 grounds, a playbill, picture, notice, advertisement or other similar
7 thing, or cuts, paints or marks such tree, shrub, rock or other natural
8 object, except for the purpose of protecting it or the public and under a
9 written permit from the town tree warden, the borough tree warden,
10 city forester or Commissioner of Transportation, as the case may be, or,
11 without the consent of the tree warden or of the officer with similar
12 duties, uses climbing spurs for the purpose of climbing any
13 ornamental or shade tree within the limits of any municipal property
14 or public highway or grounds, shall be fined not more than fifty
15 dollars for each offense.

16 (b) Any person, firm or corporation, other than a tree warden or
17 deputy tree warden, who removes, prunes, injures or defaces any
18 shrub or ornamental or shade tree, within the limits of a parcel of

19 municipal property or public way or grounds, without the legal right
20 or written permission of the town tree warden, the borough tree
21 warden, the city forester, the Commissioner of Transportation, the
22 Public Utilities Regulatory Authority or other authority having
23 jurisdiction, may be ordered by the court in any action brought by the
24 property owner or the authority having jurisdiction affected thereby to
25 restore the land to its condition as it existed prior to such violation or
26 shall award the landowner the costs of such restoration, including
27 reasonable management costs necessary to achieve such restoration,
28 reasonable attorney's fees and costs and such injunctive or equitable
29 relief as the court deems appropriate. In addition, the court may award
30 damages of up to five times the cost of restoration or statutory
31 damages of up to five thousand dollars. In determining the amount of
32 the award, the court shall consider the willfulness of the violation, the
33 extent of damage done to natural resources, if any, the appraised value
34 of the shrub or ornamental or shade tree, any economic gain realized
35 by the violator and any other relevant factors. The appraised value
36 shall be determined by the town tree warden, the borough tree
37 warden, the city forester, the Commissioner of Transportation, the
38 Public Utilities Regulatory Authority or other authority having
39 jurisdiction and shall be determined in accordance with regulations
40 adopted by the Commissioner of Energy and Environmental
41 Protection. The commissioner shall adopt regulations, in accordance
42 with the provisions of chapter 54, to develop guidelines for such plant
43 appraisal. The regulations may incorporate by reference the latest
44 revision of The Guide for Plant Appraisal, as published by the
45 International Society of Arboriculture, Urbana, Illinois. Until such time
46 as regulations are adopted, appraisals may be made in accordance
47 with said Guide for Plant Appraisal.

48 (c) Any person, firm or corporation which deposits or throws any
49 advertisement within the limits of any municipal property or public
50 way or grounds, or upon private premises or property, unless the
51 same is left at the door of the residence or place of business of the
52 occupant of such premises or property, or deposits or throws any

53 refuse paper, camp or picnic refuse, junk or other material within the
54 limits of any parcel of municipal property or public way or grounds,
55 except at a place designated for that purpose by the authority having
56 supervision and control of such municipal property or public way or
57 grounds, or upon private premises or property without permission of
58 the owner thereof, or affixes to or maintains upon any tree, rock or
59 other natural object within the limits of a parcel of municipal property
60 or public way or grounds any paper or advertisement other than
61 notices posted in accordance with the provisions of the statutes, or
62 affixes to or maintains, upon the property of another without his
63 consent, any word, letter, character or device intended to advertise the
64 sale of any article, shall (1) for a first offense, be fined not more than
65 two hundred fifty dollars, and (2) for any subsequent offense, be guilty
66 of a class C misdemeanor.

67 (d) The removal, pruning or wilful injury of any shrub or
68 ornamental or shade tree, or the use of climbing spurs upon any
69 ornamental or shade tree without the consent of the tree warden or of
70 the officer with similar duties or the affixing of any playbill, picture,
71 notice, advertisement or other similar thing concerning the business or
72 affairs of any person, firm or corporation, to a pole, shrub, tree, rock or
73 other natural object, within the limits of any parcel of municipal
74 property, public way or grounds in violation of the provisions of this
75 section by an agent or employee of such person, firm or corporation,
76 shall be deemed to be the act of such person, firm or corporation, and
77 such person, or any member of such firm or any officer of such
78 corporation, as the case may be, shall be subject to the penalty herein
79 provided, unless such act is shown to have been done without his
80 knowledge or consent.

81 (e) The affixing of each individual playbill, picture, notice,
82 advertisement or other similar thing to a pole, shrub, tree, rock or
83 other natural object, or the wilful removing, pruning, injuring or
84 defacing of each shrub or tree, or the throwing of each individual
85 advertisement or lot of refuse paper or other material within the limits

86 of any parcel of municipal property or public way or grounds or on
87 private premises, shall constitute a separate violation of the provisions
88 of this section. Nothing in this section shall affect the authority of a tree
89 warden, either by himself or by a person receiving a written permit
90 from him, to remove, prune or otherwise deal with a shrub or tree
91 under his jurisdiction.

92 (f) Any person, firm or corporation, other than a tree warden or his
93 deputy, who desires the cutting or removal, in whole or in part, of any
94 tree or shrub or part thereof within the limits of any parcel of
95 municipal property or public road or grounds, may apply in writing to
96 the town tree warden, the borough tree warden or the Commissioner
97 of Transportation or other authority having jurisdiction thereof for a
98 permit so to do. Upon receipt of such permit, but not before, the
99 applicant may proceed with such cutting or removal, provided doing
100 so is also consistent with section 16-234, as amended by this act, if
101 applicable. Before granting or denying such permit, such authority
102 may hold a public hearing as provided in section 23-59. When the
103 applicant is a public utility corporation, the party aggrieved by such
104 decision may, within ten days, appeal therefrom to the Public Utilities
105 Regulatory Authority, which shall have the power to review, confirm,
106 change or set aside the decision appealed from and its decision shall be
107 final. The burden of proving that public convenience and necessity
108 requires the proposed cutting or removal shall be on the utility. This
109 appeals process shall be in addition to the powers granted to the Public
110 Utilities Regulatory Authority under section 16-234, as amended by
111 this act, provided, if an application for such permit has been made to
112 either a tree warden or the Commissioner of Transportation or other
113 authority and denied by him, an application for a permit for the same
114 relief shall not be made to any other such authority. Upon any
115 approval of such a permit by the Commissioner of Transportation, he
116 shall notify the tree warden for the town in which the tree is located.
117 Upon any approval of such a permit by the Commissioner of
118 Transportation, the permittee shall notify the tree warden for the town
119 in which the tree is located prior to cutting any such tree.

120 Sec. 2. Section 16-234 of the general statutes is repealed and the
121 following is substituted in lieu thereof (*Effective from passage*):

122 (a) As used in this section:

123 (1) "Utility" means a telephone, telecommunications or electric
124 distribution company, each as defined in section 16-1;

125 (2) "Utility protection zone" means any rectangular area extending
126 horizontally for a distance of eight feet from any outermost electrical
127 conductor or wire installed from pole to pole and vertically from the
128 ground to the sky;

129 (3) "Hazardous tree" means any tree or part of a tree that is (A)
130 dead, (B) extensively decayed, or (C) structurally weak, which, if it
131 falls, would endanger utility infrastructure, facilities or equipment;

132 (4) "Vegetation management" means the retention of trees and
133 shrubs that are compatible with the utility infrastructure and the
134 pruning or removal of trees, shrubs or other vegetation that pose a risk
135 to the reliability of the utility infrastructure. Until such time as the
136 Department of Energy and Environmental Protection issues standards
137 for identifying such compatible trees and shrubs, the standards and
138 identification of such compatible trees and shrubs shall be as set forth
139 in the 2012 final report of the State Vegetation Management Task
140 Force;

141 (5) "Pruning" means the selective removal of plant parts to meet
142 specific utility infrastructure reliability goals and objectives, when
143 performed according to current professional tree care standards and in
144 a manner that retains the structural integrity and health of the
145 vegetation;

146 (6) "Abutting property owner" means the owner of the property
147 abutting or adjacent to that portion of a public road, public highway or
148 public grounds where the tree or shrub that the utility proposes to
149 remove or prune is located; and

150 (7) "Private property owner" means the owner of the property
151 where a tree or shrub the utility proposes to remove or prune is
152 located, which may include municipally owned land.

153 (b) A utility may perform vegetation management within the utility
154 protection zone, as necessary, to secure the reliability of utility
155 services.

156 (c) (1) In conducting vegetation management, no utility shall prune
157 or remove any tree or shrub within the utility protection zone, or on or
158 overhanging any public road, public highway or public ground,
159 without delivering notice of the proposed vegetation management to
160 the abutting property owner or private property owner. Such notice
161 shall include the option for the abutting property owner or private
162 property owner to consent, in writing, to such proposed pruning or
163 removal, object to such proposed pruning or removal or modify such
164 proposed pruning or removal. The notice shall include instructions
165 regarding how the recipient may object in accordance with subdivision
166 (3) of this subsection. Such notice shall also include a statement that if a
167 person objects to the proposed pruning or removal, and such tree falls
168 on any utility infrastructure, such person shall not be billed by the
169 utility for any resulting damage. If requested by an owner of private
170 property, the utility, municipality or the Commissioner of
171 Transportation, as appropriate, shall provide such owner with
172 information regarding whether a tree or shrub to be pruned or
173 removed is in the public right-of-way or whether such tree or shrub is
174 on such owner's private property.

175 (2) Notice shall be considered delivered when it is (A) mailed to the
176 abutting property owner or private property owner via first class mail,
177 electronic mail or text message, (B) delivered, in writing, at the location
178 of the abutting property or private property owner, or (C)
179 simultaneously conveyed verbally and provided in writing to the
180 abutting property owner or private property owner. A utility shall
181 deliver such notice to the abutting property owner or private property
182 owner at least fifteen business days before the starting date of any such

183 pruning or removal.

184 (3) The notice shall indicate that (A) objection to pruning or removal
185 shall be filed, in writing, with the utility and either the tree warden of
186 the municipality or the Commissioner of Transportation, as
187 appropriate, not later than ten business days after delivery of the
188 notice, and (B) the objection may include a request for consultation
189 with the tree warden or the Commissioner of Transportation, as
190 appropriate. For purposes of this section, an abutting property owner
191 may file an objection or request for modification by (i) sending a
192 written objection or request for modification to the utility or tree
193 warden at the address for each specified on the notice, provided if the
194 written objection is mailed, it shall be deemed received on the date it is
195 postmarked, or (ii) sending by electronic mail an objection or request
196 for modification to the dedicated electronic mail address maintained
197 by the utility as specified on the notice.

198 (4) The utility shall not prune or remove any tree or shrub that is
199 outside of the public right-of-way unless it receives written affirmative
200 consent from the private property owner to whom notice is required in
201 accordance with subdivision (2) of this subsection.

202 (5) If no objection is filed by the abutting property owner in
203 accordance with subdivision (3) of this subsection, the utility may
204 prune or remove the trees or shrubs for which notice of pruning or
205 removal has been delivered, provided the utility has also received a
206 permit as required by subsection (f) of section 23-65, as amended by
207 this act. Nothing in this chapter shall be construed to limit the power
208 and authority of a tree warden as set forth in subsection (f) of section
209 23-65, as amended by this act.

210 (6) If the abutting property owner files an objection or request for
211 modification pursuant to subdivision (3) of this subsection, or if the
212 utility does not accept the modification to the original notice, as
213 described in subdivision (1) of this subsection, the tree warden of the
214 municipality or the Commissioner of Transportation, as appropriate,

215 shall issue a written decision as to the disposition of the tree or shrub
216 not later than ten business days after the filing date of such objection.
217 This decision shall not be issued before a consultation with the
218 abutting property owner if such a consultation has been requested. The
219 abutting property owner or the utility may appeal the tree warden's
220 decision to the Public Utilities Regulatory Authority within ten
221 business days after the tree warden's decision.

222 (A) Prior to the final decision in the docket described in subsection
223 (c) of section 16-32h, the authority shall hold a hearing within sixty
224 calendar days of receipt of the abutting property owner's or utility's
225 written appeal of the tree warden's decision and shall provide notice of
226 such hearing to the abutting property owner, the tree warden or the
227 Commissioner of Transportation, as appropriate, and the utility. The
228 authority may authorize the pruning or removal of any tree or shrub
229 whose pruning or removal has been at issue in the hearing if it finds
230 that public convenience and necessity requires such action. The burden
231 of proving that public convenience and necessity requires such action
232 shall be on the utility.

233 (B) On and after the effective date of the final decision issued in the
234 docket described in subsection (c) of section 16-32h, the entity
235 designated by the authority, as determined by such docket, shall hold
236 a mediation session not later than thirty calendar days after receipt of
237 the abutting property owner's or utility's appeal of the tree warden's or
238 the Commissioner of Transportation's decision and shall provide
239 notice of such mediation session to the abutting property owner, the
240 tree warden or the Commissioner of Transportation, as appropriate,
241 and the utility, provided the abutting property owner may opt not to
242 utilize such mediation session and proceed to the hearing described in
243 this subparagraph. In the event that the appeal is not settled by
244 mediation, or the abutting owner elects not to use such mediation
245 session, the authority shall hold a hearing not later than thirty calendar
246 days after the conclusion of the mediation session, or within sixty
247 calendar days of the receipt of the abutting property owner's written

248 appeal if there is no mediation session, and shall provide notice of such
249 hearing to the abutting property owner, the tree warden, or the
250 Commissioner of Transportation, as appropriate, and the utility. The
251 authority may authorize the pruning, removal or stump grinding of
252 any tree or shrub whose pruning or removal has been at issue in the
253 hearing if it finds that public convenience and necessity requires such
254 action. The burden of proving that public convenience and necessity
255 requires such action shall be on the utility.

256 (7) When an objection or request for modification has been filed
257 pursuant to subdivision (3) of this subsection, no tree or shrub subject
258 to the objection or request for modification shall be pruned or removed
259 until a final decision has been reached pursuant to subdivision (6) of
260 this subsection.

261 (d) Subsection (c) of this section shall not apply if the tree warden of
262 the municipality or the Commissioner of Transportation, as
263 appropriate, authorizes, in writing, pruning or removal by the utility
264 of a hazardous tree within the utility protection zone or on or
265 overhanging any public highway or public ground. If the hazardous
266 tree is outside of the public right-of-way, the utility shall make a
267 reasonable effort to notify the property owner of the proposed pruning
268 or removal at least three days prior to performing such pruning or
269 removal. Nothing in this subsection shall be construed to require a
270 utility to prune or remove a tree.

271 (e) No utility shall be required to obtain a permit pursuant to
272 subsection (f) of section 23-65, as amended by this act, or provide
273 notice under subsection (c) of this section to prune or remove a tree, as
274 necessary, if any part of a tree is in direct contact with an energized
275 electrical conductor or has visible signs of burning. Nothing in this
276 subsection shall be construed to require a utility to prune or remove a
277 tree.

278 (f) No utility shall exercise any powers which may have been
279 conferred upon it to change the location of, or to erect or place, wires,

280 conductors, fixtures, structures or apparatus of any kind over, on or
281 under any public road, public highway or public ground, without the
282 consent of the adjoining proprietors or, if such company is unable to
283 obtain such consent, without the approval of the Public Utilities
284 Regulatory Authority, which shall be given only after a hearing upon
285 notice to such proprietors. The authority may, if it finds that public
286 convenience and necessity require, authorize the changing of the
287 location of, or the erection or placing of, such wires, conductors,
288 fixtures, structures or apparatus over, on or under such public road or
289 highway or public ground.

290 (g) Each utility shall operate an electronic mail account to receive
291 objections, requests for modification, inquiries or complaints pursuant
292 to subsections (a) to (f), inclusive, of this section.

293 (h) When conducting vegetation management within a utility
294 protection zone pursuant to this section, the utility shall provide for
295 the removal or disposition of any debris generated as a result of such
296 pruning or removal. The provisions of this subsection shall apply only
297 to vegetation management requested by the utility and approved
298 pursuant to this section and, if applicable, section 23-65, as amended
299 by this act.

300 (i) Not later than January 31, 2017, and each year thereafter, each
301 utility intending to conduct vegetation management in a town or
302 borough in this state shall provide the following to the tree warden of
303 such town or borough, or to the chief elected official of each such town
304 or borough: (1) A plan detailing the proposed roads or areas in said
305 town or borough where such vegetation management will take place
306 in the forthcoming calendar year, and (2) the estimated time schedule
307 for such proposed vegetation management. Each town or borough
308 provided with a utility vegetation management plan in accordance
309 with this subsection shall make such plan publicly available, by
310 electronic means or otherwise, not later than fourteen days after
311 receipt, and keep such plan publicly available for the remainder of the
312 forthcoming calendar year.

313 (j) Nothing in this section shall be construed to authorize any utility
 314 to conduct vegetation management in any utility protection zone, or
 315 portion thereof, that is located on any parcel of municipal property
 316 without complying with the provisions of section 23-65, as amended
 317 by this act.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	23-65
Sec. 2	<i>from passage</i>	16-234

ENV *Joint Favorable Subst. -LCO*

PD *Joint Favorable*